## IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA WESTERN DIVISION No. 5:13-CV-66-D

| FRANK BRETT,                 | ) |       |
|------------------------------|---|-------|
| Plaintiff,                   | ) |       |
| v.                           | ) | ORDER |
| U.S. MARSHALL KNIGHT, and    | ) |       |
| U.S. MARSHALL GARY, Unknown, | ) |       |
| Defendants.                  | ) |       |

On January 28, 2013, plaintiff ("Brett"), appearing pro se, filed a motion to proceed in forma pauperis under 28 U.S.C. § 1915, which permits an indigent litigant to commence suit in federal court without paying administration costs associated with such proceedings [D.E. 1].

A case is frivolous if it "lacks an arguable basis either in law or in fact." Neitzke v. Williams, 490 U.S. 319, 325 (1989). A complaint is frivolous where "it lacks an arguable basis . . . in law." Id. "Legally frivolous claims are based on an indisputably meritless legal theory and include claims of infringement of a legal interest which clearly does not exist . . . ." Adams v. Rice, 40 F.3d 72, 75 (4th Cir. 1994) (quoting Neitzke, 490 U.S. at 327). A complaint may be frivolous where it "lacks an arguable basis . . . in fact." Neitzke, 490 U.S. at 325. Section 1915 permits federal courts "to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." Denton v. Hernandez, 504 U.S. 25, 32 (1992). Examples of such claims include those "describing fantastic or delusional scenarios," or claims which are otherwise manifestly "fanciful" or so wholly irrational as to lack any basis in fact. Id. at 32–33; see Adams, 40 F.3d at 74–75.

Brett's complaint is filled with delusional scenarios and wholly irrational statements. The application to proceed in forma pauperis is ALLOWED. The clerk shall file the complaint. The complaint is DISMISSED as frivolous. Brett's motions to seal [D.E. 2] and to appoint counsel [D.E. 4] are DENIED as moot.

SO ORDERED. This 12 day of March 2013.

AMES C. DEVER III

Chief United States District Judge